



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

June 22, 2020

CERTIFIED MAIL
RETURNED RECEIPT REQUESTED

Mr. Jeff Inman
General Manager
Ellis Entertainment LLC
3300 U.S. 41 North
Henderson, Kentucky 42419

Re: Notice of Potential Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the
Clean Water Act (CWA), 33 U.S.C. § 1319

Dear Mr. Hall:

On July 9, 2019, the U.S. Environmental Protection Agency Region 4 and the Kentucky Department of Environmental Protection (KDEP) conducted a Compliance Evaluation Inspection (CEI) at Ellis Park Racing, located at 3300 US Highway 41 North, Henderson, Kentucky, for which Ellis Entertainment, LLC (Ellis Park) is the Owner and Operator. The purpose of the CEI was to evaluate Ellis Park's compliance with the requirements of Sections 301 and 402 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1342, and the regulations promulgated thereunder at 40 C.F.R. § 122.23, as it pertains to its treatment and disposal of horse waste and horse wash water (wastewater).

Subsequently, the EPA issued a Request for Information Pursuant to Section 308 of the Clean Water Act to Ellis Park on January 9, 2020, and Ellis Park responded to the EPA in a letter dated February 28, 2020.

Based on the CEI, the Section 308 response of February 28, 2020 and subsequent investigative efforts, Ellis Park appears to have failed to comply with the requirements of Section 301 of the CWA, 33 U.S.C. § 1311. Specifically, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters except in compliance with a National Pollutant Discharge Elimination System NPDES permit issued pursuant to Section 402 of the CWA.

- During the racing seasons, Ellis Park pumped wastewater from Pump #1 and Pump #2 directly into ditches that discharge into an unnamed tributary leading to the Ohio River. Ellis Park's discharges of wastewater to waters of the United States appear to have occurred without authorization by an NPDES permit and are, therefore, potential violations of Section 301 of the CWA, 33 U.S.C. § 1311 and 40 C.F.R. § 122.23.

Until compliance with the CWA is achieved, Ellis Park may be subject to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This Section provides for the issuance of an administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA requests that representatives of Ellis Park contact the EPA within seven (7) business days of receipt of this letter to arrange a meeting to show cause why the EPA should not take formal civil enforcement action against Ellis Park for these potential violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference should be scheduled. Ellis Park should be prepared to provide all relevant information with supporting documentation pertaining to the potential violations, including but not limited to any financial information which may reflect an inability to pay a penalty. Ellis Park has the right to be represented by legal counsel.

All information submitted during the show cause meeting must be accompanied by the following certification that is signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Please be aware that the EPA may use information provided during the telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against Ellis Park. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the potential violations identified herein or for any other violation of the CWA.

Please contact Mr. Don M. Joe at (404) 562-9751 or via email at joe.don@epa.gov to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to contact Kavita K. Nagrani, Associate Regional Counsel, at (404) 562-9697 or via email at Nagrani.Kavita@epa.gov.

Sincerely,

6/22/2020

 Mary Jo Bragan

Mary Jo Bragan
Chief, Water Enforcement Branch
Signed by: MARY JO BRAGAN

cc: Ms. Sarah Jon Gaddis, PG
KYDEP

Mr. Randy Thomas
KYDEP – Madisonville Regional Office

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06.02.2020

Joe Nagrani Schwartz Young O'Lone Bragan
Bias Young

CONTACT INFORMATION

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